

### **REMARKS/ARGUMENTS**

Reconsideration and allowance of the present application based on the following remarks are respectfully requested. Claims 1, 6, 9, 11-12, and 19 have been amended. Claim 2 has been cancelled. New claims 25-26 have been added. Support for the amendments may be found throughout the specification. No new matter has been added as a consequence of these amendments.

Claims 9 and 19 stand objected to for informalities. Claims 6 and 19 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Applicant submits that the amendments to these claims render these objections and rejections moot, and that the pending claims, as amended, are in full compliance with 35 U.S.C. §112, second paragraph.

Claims 1-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over International Publication No. WO 98/026752 ("Masuda") in view of International Publication No. WO 03/041677 ("Kessell"). For at least the following reasons, the claims are believed to be patentable over the cited references.

Applicants submit that the pending claims are directed towards, for example, a water-in-silicone oil emulsion, comprising: *inter alia*, (i) 0.1-25 wt.% of particles of metal oxide in an aqueous dispersion, wherein the dispersed metal oxide particles have a median particle volume diameter in the range from 18 to 32 nm; (ii) 5 to 60% by weight of silicone oil; and (iii) greater than 20% by weight of water; wherein the emulsion comprises a change in whiteness  $\Delta L$  of less than 3.

The Examiner acknowledges that Masuda fails to teach metal oxide particles having a median particle volume diameter in dispersion in the range from 18 to 32 nm (See present Official Action at page 5). Accordingly, the Examiner must rely on Kessell to cure this deficiency.

However, Kessell is directed towards providing an oil-in-water emulsion, such as in Example 4 of Kessell, and there is no teaching or suggestion of a water-in-oil emulsion, much less a water-in-silicone oil emulsion. Accordingly, Applicants submit that the pending rejection fails to provide the necessary motivation as to why the skilled artisan, developing a water-in-oil emulsion, would rely on the oil-in-water emulsion of Kessell to provide the specified metal particles of the pending claims. Moreover, there is no teaching – much less suggestion – that even such a combination would achieve the benefits of the pending claims.

Applicants further note that Masuda is directed to providing a foundation product containing high concentrations of pigments and fillers. For instance, in each of Masuda's exemplified foundations, such as in Examples 1-4, which were highlighted by the Examiner, the foundations include 15.5 wt.% of pigments and fillers. Accordingly, it is submitted that the foundations of Masuda would at least fail to provide the whiteness values of the pending

claims. In fact, given that Kessell is further directed towards producing aqueous dispersions of metal oxide particles having *improved transparency*, it is counter intuitive to suggest that one skilled in the art would consider using the transparent metal oxide particles of Kessell in the high pigment/filler concentrated foundation of Masuda.


In view of the above, Applicants submit that the pending claims, as amended, are patentable over the cited art.

Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

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